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To: Microsoft ATR
Date: 12/17/01 4:29am
Subject: Microsoft Settlement

It is clear to me that the Consent Decree was reached for the purpose of expediency rather than a sustainable result. When the result of the antitrust litigation has been upheld by the highest court in the nation, why is a lower court and, more specifically, the Justice Department willing to accept a less favorable settlement to consumer than the Microsoft proposed settlement when the finding of guilt was still at issue. I find it inconceivable that a firm with 96% marketshare, which has routinely annihilated competitors in its path, be offered improved terms after guilt has been established.

I find that it is with deep regret, that contrary to the statements of the US Department of Justice in its impact statement discussing the Consent Decree, the remedies settlement embodied in the Consent Decree fails to achieve the ends mandated by the Court for the following reasons:

- * it fails to deny Microsoft the fruits of its statutory violations,
- * it fails to ensure that competition is likely to result,
- * it was an agreement reached for the purpose of expediency, not for ensuring an adequate remedy and,
- * it establishes an untenable precedent for future antitrust cases.

I feel that as someone familiar with computing and the computer industry, and the adverse effects of Microsoft's monopolies in these areas, I cannot see how the settlement that is proposed even pretends to remedy the antitrust violations for which Microsoft has been found culpable. The company has already been found in violation, and this is the penalty phase of the case, but the settlement contains no penalties and actually advances Microsoft's operating system monopoly. A just penalty would at barest minimum include three additional features:

- * Any remedy seeking to prevent an extension of Microsoft's monopoly must place Microsoft products as extra-cost options in the purchase of new computers, so that the user who does not wish to purchase them is not forced to do so. This means that for the price differential between a new computer with Microsoft software and one without, a computer seller must offer the software without the computer (which would prevent computer makers from saying that the difference in price is only a few dollars). Only then could competition come to exist in a meaningful way.
- * The specifications of Microsoft's present and future document file formats must be made public, so that documents created in Microsoft applications may be read by programs from other makers, on Microsoft's or other operating systems. This is in addition to opening the Windows application program interface (API, the set of "hooks" that allow other parties to write applications for Windows operating systems), which is already part of the proposed settlement.
- * Any Microsoft networking protocols must be published in full and approved by an independent network protocol body. This would prevent Microsoft from seizing de facto control of the Internet.

There is considerable national interest in this issue, it is crucial that Microsoft's operating system

monopoly not be extended. This is a case is of great importance, not just now but for many years to come. This suggests a careful and deliberate penalty is far more important to the health of the nation than is a hasty one.

I would like to finish by quoting the nine State Attorneys Generals who are opposing the settlement "Nothing in the text of this agreement forces Microsoft to change its business practices and technical implementations in the least."